



# SENATOR RUNNER'S WEEK IN REVIEW

## A WEEKLY REVIEW THAT WILL KEEP YOU INFORMED AND UP-TO-DATE



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### Compulsory Union Dues

One of the first questions typically asked by politically savvy individuals who are starting a new job that falls under a collective bargaining agreement is if they have to join the union and pay union dues. While individuals cannot be forced to join a union, they can be forced to pay union dues. The U.S. Supreme Court, in *Communications Workers v. Beck*, 487 U.S. 735 (1988), clarified that under the National Labor Relations Act (NLRA) non-members can be required to pay a union fee ("agency fee") that equals their share of what the union can prove are its costs of collective bargaining, contract administration, and grievance adjustment.

Union dues are typically split into two parts. The first and largest portion is an agency fee, which is used to support union representation, collective bargaining, and benefits. The second portion is a political fee, which is used for lobbying, membership recruitment, campaigning, and other political purposes.

### Compulsory Union Dues for Ideological Purposes

The question then is whether a union can force workers to pay the portion of their dues that go toward causes or candidates to which they are politically or morally opposed. The answer to this question depends on if these individuals have joined the union. If they have joined the union, then they can be forced to pay the portion of their dues directed toward ideological purposes to which they may be opposed on either religious or political grounds. For example, members of a union can be forced to pay the increase in dues mentioned above regardless of whether or not they oppose how the increase in dues will be spent.

However, if these individuals have chosen not to become members of the union and they object to any portion of their dues being directed toward political or ideological purposes they oppose, Title VII of the Civil Rights Act and two U.S. Supreme Court decisions require any amount of dues directed by the union toward such purposes to be either refunded or redirected toward a mutually selected charity (whether the funds are refunded or redirected depends upon the reason for the objection).

Title VII of the Civil Rights Act protects all unionized employees from being forced to support union-backed causes or candidates they believe are in opposition to their religious beliefs or their political

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views.

Private sector employees who have been required to pay union dues or an equivalent fee, as the Beck case referenced above clarified, have a right under the NLRA to object to the use of their dues for purposes other than collective bargaining, contract administration, and grievance adjustment and to obtain a reduction of any portion of their compulsory payments that have been or would be used for union activities not involved in collective bargaining or union administration.

Public sector employees, including teachers, as the U.S. Supreme Court, in *Abood v. Detroit Board of Education*, 431 U.S. 209 (1977), held cannot be required to pay more than an agency fee that equals their share of what the union can prove is its costs of collective bargaining, contract administration, and grievance adjustment.

### **Safeguarding Non-Union Member Rights**

Important safeguards exist under the law to ensure that the right to pay only an agency fee to the union.

In *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986), the U.S. Supreme Court held that the employer and the union must establish certain procedural safeguards to ensure individuals of the right to pay only an agency fee to the union. These safeguards include providing individuals the following: 1) Audited financial information about how the amount of the agency fee was calculated; 2) An opportunity to challenge the amount of the agency fee before an impartial decision maker and to make the union prove its fee claim; and 3) The right to place the contested amount of the agency fee in escrow so that the union will not be able to illegally use the money while a decision on the proper amount of the agency fee is pending.

The United States Court of Appeals of the District of Columbia Circuit, in *Abrams v. Communications Workers*, 59 F.3d 1373 (D.C. Cir. 1995), held that private sector unions under the NLRA also must comply with the procedural requirements imposed on public employee unions in the Hudson case referenced above. However, it should be noted that not all of the requirements of Hudson apply under the NLRA.

### **Preventing Use of a Union Member's Dues**

As mentioned above, federal law protects all unionized employees from being forced to support causes or candidates they believe are in opposition to their religious beliefs or political views.

Employees who are represented by a union and who object to any portion of their dues being directed toward candidate or issues to which they are opposed can prevent the union from doing so by simply informing the union of their objection. The objection can be for either religious or political reasons. These two types of objections require a different level of accommodation from the union. In both cases, individuals will no longer be considered members of the union. As such, they will lose any benefits provided by the union other than those benefits derived from collective bargaining.

Religious objectors can have the entire amount of their union dues redirected to certain types of charities specified under the law by sending a letter to the union asking that the funds be diverted to a mutually agreeable 501(c)(3). Political objectors can have the portion of their dues that is directed toward supporting lobbying or political activities refunded to them by sending a letter notifying the union of their objection and requesting a refund. In either case, an objector should check with the union to see if it has an objection policy before beginning the objection process.

To find out more information on this topic and for sample objection letters, please visit [www.pacificjustice.org](http://www.pacificjustice.org).

If you would like to contact Senator Runner, please click here: [Email](#) - [Website](#)

#### OFFICES

##### Capitol

State Capitol, Room 4066  
Sacramento, CA 95814  
Phone: 916-445-6637  
Fax: 916-445-4662

##### Antelope Valley

848 W. Lancaster Blvd, Ste 101  
Lancaster, CA 93534  
Phone: 661-729-6232  
Fax: 661-729-1683

##### Victorville

Victorville City Hall  
14343 Civic Drive, First Floor  
Victorville, CA 92392  
Phone: 760-843-8414  
Fax: 760-843-8348

##### Santa Clarita – San Fernando Valley – Ventura County

Santa Clarita City Hall  
23920 Valencia Blvd., Suite 250  
Santa Clarita, CA 91355  
Phone: 661-286-1471 Santa  
Clarita Valley  
Phone: 661-286-1472 San  
Fernando Valley & Ventura County  
Fax: 661-286-2543